

**BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MOHAMAD ZIAD BAYASI
11037 Pallon Way
San Diego, CA 92124

Civil Engineer License No. C 46500
Structural Engineer License No. S 4057

Respondent.

Case No. 781-A

OAH No. L-2006020437

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board, as its Decision in this matter.

This Decision shall become effective on October 6, 2006.

It is so ORDERED September 8, 2006.

Original Signed

FOR THE BOARD

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMES M. LEDAKIS, State Bar No. 132645
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101
5 P.O. Box 85266
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6 Telephone: (619) 645-2105
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7

8 Attorneys for Complainant

9 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 MOHAMAD ZIAD BAYASI
13 11037 Pallon Way
14 San Diego, CA 92124

15 Civil Engineer License No. C 46500
16 Structural Engineer License No. S 4057

17 Respondent.

Case No. 781-A

OAH No. L-2006020437

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 In the interest of a prompt and speedy settlement of this matter, consistent with the
19 public interest and the responsibility of the Board for Professional Engineers and Land Surveyors
20 (Board) the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
21 which will be submitted to the Board for approval and adoption as the final disposition of the
22 Accusation.

23 **PARTIES**

24 1. Cindi Christenson, P.E. (Complainant) is the Executive Officer of the
25 Board for Professional Engineers and Land Surveyors. She brought this action solely in her
26 official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State
27 of California, by James M. Ledakis, Deputy Attorney General.
28

2. Mohamad Ziad Bayasi (Respondent) is represented in this proceeding by attorney John Murphy, whose address is 7955 Normal Avenue, La Mesa, CA. 91941.

3. On or about February 1, 1991, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License No. C 46500 to respondent. The license was in full force and effect at all times relevant to the charges brought in Accusation No. 781-A and will expire on June 30, 2007, unless renewed.

4. On or about February 7, 1997, the Board for Professional Engineers and Land Surveyors issued Structural Engineer License No. S 4057 to respondent. The license was in full force and effect at all times relevant to the charges brought in Accusation No. 781-A and will expire on June 30, 2007, unless renewed.

JURISDICTION

5. Accusation No. 781-A was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 23, 2005. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 781-A is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 781-A. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

1 8. Respondent voluntarily, knowingly, and intelligently waives and gives up
2 each and every right set forth above.

3 **CULPABILITY**

4 9. Respondent understands and agrees that the charges and allegations in
5 Accusation No. 781-A, if proven at a hearing, constitute cause for imposing discipline upon his
6 Civil Engineer License No. 46500, as well as his Structural Engineer License No. S 4057.

7 10. For the purpose of resolving the Accusation without the expense and
8 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
9 establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up
10 his right to contest those charges.

11 11. Respondent agrees that his Civil Engineer License and his Structural
12 Engineer License are subject to discipline and he agrees to be bound by the Board's imposition of
13 discipline as set forth in the Disciplinary Order below.

14 **RESERVATION**

15 12. The admissions made by Respondent herein are only for the purposes of
16 this proceeding, or any other proceedings in which the Board or other professional licensing
17 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

18 **CONTINGENCY**

19 13. The parties understand and agree that facsimile copies of this Stipulated
20 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
21 force and effect as the originals.

22 14. In consideration of the foregoing admissions and stipulations, the parties
23 agree that the Director may, without further notice or formal proceeding, issue and enter the
24 following Disciplinary Order:

25 **DISCIPLINARY ORDER**

26 IT IS HEREBY ORDERED that Civil Engineer License No. C 46500 and
27 Structural Engineer License No. S 4057 issued to Mohamad Ziad Bayasi is revoked. However,
28 the revocation is stayed, and Respondent is placed on probation for four (4) years on the

1 following terms and conditions. If respondent successfully completes all the terms of probation
2 before four years, he can petition the Board for early termination of probation after serving two
3 years of probation.

4 1. **Obey All Laws.** The Respondent shall obey all laws and regulations
5 related to the practices of professional engineering and professional land surveying.

6 2. **Submit Reports.** The Respondent shall submit such special reports as the
7 Board may require.

8 3. **Tolling of Probation.** The period of probation shall be tolled during the
9 time the Respondent is practicing exclusively outside the state of California. If, during the period
10 of probation, the Respondent practices exclusively outside the state of California, the Respondent
11 shall immediately notify the Board in writing.

12 4. **Violation of Probation.** If the Respondent violates the probationary
13 conditions in any respect, the Board, after giving the Respondent notice and the opportunity to be
14 heard, may vacate the stay and reinstate the disciplinary order which was stayed. If, during the
15 period of probation, an accusation or petition to vacate stay is filed against the Respondent, or if
16 the matter has been submitted to the Office of the Attorney General for the filing of such, the
17 Board shall have continuing jurisdiction until all matters are final, and the period of probation
18 shall be extended until all matters are final.

19 5. **Completion of Probation.** Upon successful completion of all of the
20 probationary conditions and the expiration of the period of probation, the Respondent's license
21 shall be unconditionally restored.

22 6. **Cost Recovery.** The Respondent is hereby ordered to reimburse the Board
23 the amount of \$15,000.00 within forty-five months from the effective date of this decision for its
24 investigative and prosecution costs. Failure to reimburse the Board's cost of its investigation and
25 prosecution shall constitute a violation of the probation order. The Board agrees to accept 45
26 equal monthly installments of \$333.33 due on the fifth of every month commencing 30 days from
27 the effective date of the decision.
28

1 7. **Examination.** Within 60 days of the effective date of the decision, the
2 Respondent shall successfully complete and pass the California Laws and Board Rules
3 examination, as administered by the Board.

4 8. **Ethics Course.** The Respondent shall successfully complete and pass the
5 course in professional ethics, "Advanced Studies in Engineering Ethics, PDH-60," as offered by
6 correspondence through the Murdough Center for Engineering Professionalism, Texas Tech
7 University. This course shall be successfully completed within 180 days of the effective date of
8 the decision. Respondent may successfully complete and pass an equivalent professional ethics
9 course; however, said course must be approved in advance by the Board or its designee.

10 9. **Notification.** Within 30 days of the effective date of the decision, the
11 Respondent shall provide the Board with evidence that he has provided all persons or entities
12 with whom he has a contractual or employment relationship relating to professional civil
13 engineering (including geotechnical and structural engineering) with a copy of the decision and
14 order of the Board and shall provide the Board with the name and business address of each
15 person or entity required to be so notified. During the period of probation, the Respondent may
16 be required to provide the same notification of each new person or entity with whom he has a
17 contractual or employment relationship relating to professional civil engineering (including
18 geotechnical and structural engineering) and shall report to the Board the name and address of
19 each person or entity so notified.

20 10. **Take And Pass College-Level Courses.** Within three and one-half years
21 of the effective date of the decision, the Respondent shall successfully complete and pass, with a
22 grade of "C" or better, three college-level courses in geotechnical engineering, approved in
23 advance by the Board or its designee. Such courses shall be specifically related to the area of
24 violation. For purposes of this subdivision, "college-level course" shall mean a course offered by
25 a community college or a four-year university of three semester units or the equivalent;
26 "college-level course" does not include seminars.

27 11. **Take and Pass Examinations.** Within three and one-half years of the
28 effective date of the decision, the Respondent shall take and achieve the passing score as set by

1 the Board for the National Council of Examiners for Engineering and Surveying (NCEES)
2 Principles and Practices of Civil Engineering examination. The Respondent shall be required to
3 complete the Geotechnical depth module during the afternoon portion of the examination. The
4 Respondent shall be required to pay the application fee as described in Section 407.

5 12. **Monitored Practice.** Until the Respondent has successfully completed
6 and passed the courses required by Conditions 8 and 10 and until he has successfully completed
7 and passed the examination required by Condition 11, the Respondent may practice geotechnical
8 engineering only under the review and monitoring of a professional civil engineer who
9 specializes in geotechnical engineering or a professional geotechnical engineer. The person or
10 persons shall be approved in advance by the Board or its designee. The reviewing professional
11 engineer shall initial every geotechnical engineering document that the Respondent signs and
12 seals in close proximity to Respondent's seal. During the period of monitored practice, the
13 Board may require the Respondent to provide reports from the reviewing professional engineer
14 regarding the Respondent's geotechnical engineering work.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John Murphy. I understand the stipulation and the effect it will have on my Civil Engineer License, and Structural Engineer License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 6/27/06

Original Signed

MOHAMAD ZIAD BAYASI (Respondent)

I have read and fully discussed with Respondent Mohamad Ziad Bayasi the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6-27-06

Original Signed

JOHN MURPHY
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: June 23, 2006

BILL LOCKYER, Attorney General
of the State of California

Original Signed

JAMES M. LEDAKIS
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2005700901
Stip Bayasi education.wpd

Exhibit A
Accusation No. 781-A

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMES M. LEDAKIS, State Bar No. 132645
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2105
Facsimile: (619) 645-2061

7 Attorneys for Complainant

8
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BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
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11 In the Matter of the Accusation Against:

Case No. 781-A

12 MOHAMAD ZIAD BAYASI

OAH No.

13 11037 Pallon Way
14 San Diego, CA 92124
Civil Engineer No. C 46500
15 Structural Engineer No. S 4057

A C C U S A T I O N

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Cindi Christenson, P.E. (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer for the Board for Professional Engineers and Land
22 Surveyors, Department of Consumer Affairs.

23 2. On or about February 1, 1991, the Board for Professional Engineers and
24 Land Surveyors issued Civil Engineer license no. C 46500 to Mohamad Ziad Bayasi. Said
25 license will expire on June 30, 2007, unless renewed.

26 3. On or about February 7, 1997, the Board for Professional Engineers and
27 Land Surveyors issued Structural Engineer license no. S 4057 to Mohamad Ziad Bayasi. Said
28 license will expire on June 30, 2007, unless renewed.

JURISDICTION

4. This Accusation is brought before the Board for Professional Engineers and Land Surveyors (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 6775 of the Code states, in pertinent part, that "[T]he board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

....
(c) Who has been found guilty by the board of negligence or incompetence in his or her practice.

....
(h) Who violates any provision of this chapter.

6. Section 419 of Title 16, California Code of Regulations sets forth the probationary terms "[f]or violations of Business and Professions Code sections 6775 and/or 8780 which result in an order issued in accordance with Chapters 4.5 and 5 of Part 1 of Division 3 of Title 2 of the Government Code against a professional engineering and/or a professional land surveying license.

7. Section 415 of Title 16, California Code of Regulations, entitled, Practice Within Area of Competence, states in pertinent part:

A professional engineer or land surveyor licensed under the Code shall practice and perform engineering or land surveying work only in the field or fields in which he/she is by education and/or experience fully competent and proficient. Nothing in this regulation shall be construed: (1) to prohibit a professional engineer from signing plans which include engineering work in areas other than that in which he/she is fully competent and proficient, if such work was performed by other engineers who were fully competent and proficient in such work; (2) to prohibit a professional engineer from performing engineering work or a land surveyor from performing land surveying work in areas which involve the application of new principles, techniques, ideas or technology; (3) to prohibit a professional engineer from supervising other engineers or a land surveyor from supervising other land surveyors who may respectively be performing engineering work or land surveying work in areas other than those in which the supervising professional engineer or supervising land surveyor is fully competent and proficient; and (4) to prohibit a professional engineer from signing plans which include engineering work, portions of which were designed or required by any governmental agency.

1 8. Section 118, subdivision (b), of the Code provides that the
2 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of
3 jurisdiction to proceed with a disciplinary action during the period within which the license may
4 be renewed, restored, reissued or reinstated.

5 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
6 request the administrative law judge to direct a licensee found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case.

9 **Project No. 1; Statement of Facts:**

10 10. On February 18, 2000, respondent, Ziad Bayasi, a registered civil and
11 structural engineer, performed a soils investigation and soils testing for construction of a three
12 story office building near Aero Drive and Interstate 15 in San Diego, California. In reviewing
13 respondent's geotechnical report submitted to the City of San Diego Building Department for
14 approval, the Board's expert made the following conclusions: respondent's report indicated that
15 there were borings and laboratory testing for which no logs or test data was provided;
16 respondent's report referenced appendices that were not attached to his report; respondent mis-
17 located the proposed building site with respect to a major fault systems by a factor of ten, or
18 fifteen miles as set forth in his report, and miscalculated the anticipated seismic accelerations.
19 Respondent described the site soils in a nonsensical fashion that had no geological value in
20 assessing the site conditions.

21 11. In response to the Board's investigation and request for additional
22 information, respondent submitted a second site investigation report. The second report was
23 different than the first report submitted by respondent to the City; respondent represented that
24 there were three boring logs, the results of a single sieve analysis, and two direct shear test
25 diagrams. There was no information as to the location of the samples on the site nor the
26 engineering properties of the samples. In his second report he encountered subsurface conditions,
27 and conditions in the boring logs varied greatly from those presented by respondent in his first
28 report submitted to the City Building Department. Both the first and second reports submitted by

1 respondent include a section entitled, "Faults and Ground Shaking," where a table containing
2 incorrect information related to the Newport-Inglewood fault is presented in relation to the site
3 presented to the San Diego Building Department.

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Professional Negligence and Incompetence)

6 12. Respondent is subject to disciplinary action under section 6775(c) for
7 negligence or incompetence in his practice as set forth in paragraphs 10 and 11 above.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Violation of the Engineering Regulations)

10 13. Respondent is subject to disciplinary action under section 6775(h) for
11 violation of California Code of Regulations section 415, practicing outside his area of competence
12 as set forth in paragraphs 10 and 11 above.

13 **Project No. 2; Statement of Facts:**

14 14. On December 5, 1997, respondent prepared a geotechnical investigation
15 and report for a single family residence located at 13134 Polvera Avenue, San Diego, California.
16 In his report, respondent states, "this investigation consists of subsurface observation, subsurface
17 exploration and sampling, collection and testing of disturbed and undisturbed samples
18 representative of field conditions, analysis of findings, and report preparation." However, in
19 reviewing respondent's investigation and report, there are no disturbed or bulk samples; there are
20 no soil classifications, there is no description as to how the undisturbed or bulk samples were
21 extracted from the exploratory trenches, there are no laboratory test results to indicate which
22 samples were tested and there is no information regarding the type, size of the sample, and the
23 driving mechanism used for obtaining undisturbed samples. Respondent's statements in his
24 report, "such soil was loose and should be recompacted until suitable soil is found" and "tolerable
25 limits of settlements and/or settlement and expansion potentials of the site soil," in the context of
26 geotechnical information is incoherent and meaningless and is evidence of his failure to meet the
27 minimum standard of care.

1 15. Further in a section entitled, "Fault and Ground Shaking," respondent
2 misidentifies the location of the correct seismic fault for this project. For example, the
3 information presented by respondent show that a 6.4 magnitude event on the Rose Canyon fault
4 would generate a peak acceleration of .5g at the site, ten times that of the Elsinore and Newport-
5 Inglewood faults and twenty five times that of the San Jacinto fault, yet respondent wrongly
6 concludes that, "Rose Canyon and Newport-Inglewood faults are not expected to generate major
7 earthquakes. Most of the ground shaking at the site would be generated by major quakes in at
8 Elsinore fault or San Jacinto fault."

9 16. In his report, respondent opines, "Even although this site is not adjacent or
10 close to an active fault, proper precaution need to be taken for earthquake design of structures and
11 retaining walls . . . , different faults in San Diego County have different zone slip rates that vary
12 from very low to high rate of activity." Based upon respondent's investigation, there is no factual
13 basis to implement his recommendation in the design of the structure.

14 17. In his report, respondent states, "the average results of our testing for
15 samples of depths from 1 to 5 feet are as follows . . . ," Thereafter, respondent proceeded to
16 report specific values for allowable bearing pressure, allowable passive pressure, and coefficient
17 of friction that are calculated factors and not test results. Respondent does not define the
18 boundaries of sandy loose soil to a depth of six feet and he neglected to identify the boundaries of
19 such loose soils and how the average test results were to be utilized under variable soils
20 conditions present at the site.

21 18. At page 13 of his report, under Earthwork, respondent recommends, "Fills
22 must be compacted to 90% maximum density and angle of internal friction of 35 degrees at least."
23 This statement in the context of geotechnical engineering is meaningless.

24 19. At page 13 of his report, under General, respondent states, "The following
25 recommendations assume that the upper three feet of pad is non-expansive." This is a nonsensical
26 recommendation when at page five of respondent's report, he represents that the testing of the
27 soils included determining the expansive characteristics of the site soils.
28

1 20. At page 14 of his report, under Settlement and Expansion Characteristics,
2 respondent states, "the anticipated settlement of the proposed structures (total and/or differential)
3 is within tolerable limits," the section is concluded with the statement, "the recommendations in
4 this report reflect settlement and expansion potentials of the soil at the site." However, nothing in
5 respondent's report quantifies tolerable limits of settlements, and/or settlement and expansion
6 potentials of the site soil.

7 **THIRD CAUSE FOR DISCIPLINE**

8 (Professional Negligence and Incompetence)

9 21. Respondent is subject to disciplinary action under section 6775(c) for
10 negligence or incompetence in his practice as set forth in paragraphs 14 through 20 above.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 (Violation of the Engineering Regulations)

13 22. Respondent is subject to disciplinary action under section 6775(h) for
14 violation of California Code of Regulations section 415, practicing outside his area of
15 competence as set forth in paragraph 14 through 20 above.

16 **Project No. 3; Statement of Facts:**

17 23. On December 1, 1997, respondent submitted a geotechnical report for
18 property located at 17220 Via del Campo Road, San Diego, California. Respondent made
19 several representations in this report, however, there was no description as to undisturbed
20 samples being extracted from the exploratory borings, there was no information regarding the
21 type, size of the sampler, and the driving mechanism used for obtaining undisturbed samples,
22 there were no soils classifications, there were no test results to indicate which samples were
23 tested.

24 24. In respondent's report under "Fault and Ground Shaking," respondent
25 misidentifies the location of the correct seismic fault for this project. For example, the
26 information presented by respondent shows that a 6.4 magnitude event on the Rose Canyon fault
27 would generate a peak acceleration of .5g at the site, ten times that of the Elsinore and Newport-
28 Inglewood faults and twenty five times that of the San Jacinto fault, yet respondent wrongly

1 concludes that, "Rose Canyon and Newport-Inglewood faults are not expected to generate major
2 earthquakes. Most of the ground shaking at the site would be generated by major quakes in at
3 Elsinore fault or San Jacinto fault."

4 25. In his report, respondent opines, "Even although this site is not adjacent or
5 close to an active fault, proper precaution need to be taken for earthquake design of structures
6 and retaining walls . . . , different faults in San Diego County have different zone slip rates that
7 vary from very low to high rate of activity." Based upon respondent's investigation, there is no
8 factual basis to implement respondent's recommendation in the design of the structure.

9 26. In his report, under Description of Soil Testing Results, respondent states,
10 "the average results of our testing for samples of depths from 1 to 5 feet are as follows. . . ,"
11 thereafter respondent proceeds to provide specific values for allowable bearing pressure,
12 allowable passive pressure, and coefficient of friction that are calculated values and not directly
13 obtained from test results. Moreover, the boring logs indicate that the site soils were explored to
14 depths of 7 to 8 feet, where undisturbed soil samples were extracted. These test results should be
15 applicable to the depths explored and not to 1 to 5 feet unless explained. However, on the same
16 page respondent contradicts himself when he states, "the top layers of soil at the site are loose
17 and should be removed and recompactd to a depth of 2 feet."

18 27. At page 13 of his report, under Earthwork, respondent recommends, "fills
19 must be compacted to 90% maximum density and angle of internal friction of 35 degrees at
20 least." This statement in the context of geotechnical engineering is meaningless.

21 28. At page 13 of his report, under General, respondent states, "the following
22 recommendations assume that the upper three feet of pad is non-expansive." This is a
23 nonsensical recommendation when at page five of respondent's report, he represents that the
24 testing of the soils included determining the expansive characteristics of the site soils.

25 29. At page 14 of his report, under Settlement and Expansion Characteristics,
26 respondent states, "the anticipated settlement of the proposed structures (total and/or differential)
27 is within tolerable limits," the section is concluded with the statement, "the recommendations in
28 this report reflect settlement and expansion potentials of the soil at the site." However, nothing

1 in respondent's report quantifies tolerable limits of settlements, and/or settlement and expansion
2 potentials of the site soil.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 (Professional Negligence and Incompetence)

5 30. Respondent is subject to disciplinary action under section 6775(c) for
6 negligence or incompetence in his practice as set forth in paragraphs 23 through 29 above.

7 **SIXTH CAUSE FOR DISCIPLINE**

8 (Violation of the Engineering Regulations)

9 31. Respondent is subject to disciplinary action under section 6775(h) for
10 violation of California Code of Regulations section 415, practicing outside his area of
11 competence as set forth in paragraph 23 through 29 above.

12 **Project No. 4; Statement of Facts:**

13 32. On March 31, 1997, respondent submitted a geotechnical investigation of
14 property located at 3663 Eugene Place, San Diego, California. As part of his investigation,
15 respondent conducted subsurface observation, subsurface exploration and sampling, collecting
16 and testing disturbed and undisturbed samples representative of field conditions and an analysis
17 of findings. In respondent's boring logs, he described bulk, undisturbed chunk and undisputed
18 samples, however, there is no information as to the method of sample extraction, sample size,
19 type of the sampler, and the driving mechanism used for obtaining the undisturbed sample.
20 There was no laboratory test data to indicate which samples were tested. There was no
21 information in the report as to the methodology used for determining the settlement potential of
22 the site soils.

23 33. Respondent made representations in his report that have no geotechnical
24 value. For example, under Soil Formation, respondent stated, "the soils at the site consisted of
25 the type usually found in this area of San Diego County."

26 34. In his report, respondent states, "at depths greater than 5 feet a layer of
27 clay was encountered." However, respondent's report contradicts the specific data provided in
28 Boring Log #2 where the clay layer was purportedly encountered at a depth of less than 5 feet.

1 35. In his report, at page 7, under Fault and Ground Shaking, the table or
2 Figure 2 shows the distance of faults from the site. Respondent states Figure 2, "illustrates the
3 locations of major seismic faults in Southern California," however, Figure 2 does not show the
4 location of the Rose Canyon fault which is the closest fault to the site.

5 36. In his report, at page 8, respondent states, "even though this site is not
6 adjacent or close to an active fault, proper precaution need to be taken for earthquake design of
7 structures and retaining walls. . . , different faults in San Diego County have different zone slip
8 rates that vary from very low to high rate of activity. . . , the following chart summarizes the
9 probability of quake events at the site." In the table that follows the aforementioned statements,
10 respondent calculates the identical probability of occurrences of .05g and .03g "Design
11 Accelerations" for the site. It is not clear as to how such a recommendation should be utilized in
12 the design of a one-story wood frame residential house.

13 37. In his report, at page 11, under Description of Soil Testing Results,
14 respondent states, "the average results of our testing for samples of depths ranging from 1 to 6
15 feet are as follows." Respondent proceeds to list specific values for allowable bearing pressure,
16 allowable passive pressure, and coefficient of friction that are calculated values and not test
17 results. In addition, the boring logs indicate that a 12 inch thick layer of clay was encountered
18 within the given range of 1 to 6 feet. As such, providing average results is meaningless.

19 38. At page 13 of his report, under Earthwork, respondent recommends, "fills
20 must be compacted to 90% maximum density and angle of internal friction of 35 degrees at
21 least." This statement in the context of geotechnical engineering is meaningless.

22 39. At page 14 of his report, under Settlement and Expansion Characteristics,
23 respondent states, "the anticipated settlement of the proposed structures (total and/or differential)
24 is within tolerable limits," the section is concluded with the statement, "the recommendations in
25 this report reflect settlement and expansion potentials of the soil at the site." However, nothing
26 in respondent's report quantifies tolerable limits of settlements, and/or settlement and expansion
27 potentials of the site soil.

28 /

1 **SEVENTH CAUSE FOR DISCIPLINE**

2 (Professional Negligence and Incompetence)

3 40. Respondent is subject to disciplinary action under section 6775(c) for
4 negligence or incompetence in his practice as set forth in paragraphs 32 through 39 above.

5 **EIGHTH CAUSE FOR DISCIPLINE**

6 (Violation of the Engineering Regulations)

7 41. Respondent is subject to disciplinary action under section 6775(h) for
8 violation of California Code of Regulations section 415, practicing outside his area of
9 competence as set forth in paragraph 32 through 39 above.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the Board for Professional Engineers and Land Surveyors
13 issue a decision:

14 1. Revoking or suspending Civil Engineer Number C 46500, issued to
15 Mohamad Ziad Bayasi.

16 2. Revoking or suspending Structural Engineer Number S 4057, issued to
17 Mohamad Ziad Bayasi.

18 3. Ordering Mohamad Ziad Bayasi to pay the Board for Professional
19 Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Business and Professions Code section 125.3;

21 4. Taking such other and further action as deemed necessary and proper.

22 DATED: 11/15/05
23

24 Original Signed

25 Cindi Christenson, P.E.

26 Board for Professional Engineers and Land Surveyors

27 Department of Consumer Affairs

28 State of California

Complainant